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The Commonwealth of Massachusetts

ANNUAL REPORT

OF THE

Department of Public Utilities

FOR THE

Year Ending November 30, 1936

COMMISSIONERS' REPORT



DEPARTMENT OF PUBLIC UTILITIES ANNUAL REPORT

Boston, January 20, 1937.

To the Honorable Senate and House of Representatives in General Court Assembled:

We respectfully submit the seventeenth annual report of the Department of Public Utilities for the fiscal year ended November 30, 1936.

On May 6, 1936, Commissioner A. C. Webber resigned to accept appointment to the State Board of Tax Appeals. Commissioner Webber had served as a member of the Commission since December 18, 1932, having been appointed by the then Governor, Joseph B. Ely.*

Professor John J. Murray of Milton was appointed Commissioner to succeed Mr. Webber, was designated as Chairman by the Governor and assumed the duties of his office on May 7, 1936.

On November 20, 1936, it was voted that the following Memorial be spread upon the records of the Department:

In Memoriam

On November 1, 1936, Henry C. Attwill, Commissioner of the Department of Public Utilities, was taken by death. Mr. Attwill had served continuously since 1919, when he resigned as Attorney General of the Commonwealth to accept appointment by Governor Calvin Coolidge to the then Public Service Commission. He was chairman of the Department, as constituted under the reorganization of 1919, for a period of sixteen years, and during his incumbency gained a reputation for sound and conservative administration that was nation-wide.

Combining the courage of independence, rugged integrity, and fairness, with an alert and deeply reasoning mind, Mr. Attwill was an executive of a kind rarely found in the public service. With the appreciation born of intimate association, we deeply regret his loss.

The number of corporations, private and municipal, persons, firms, and associations under the jurisdiction of and filing annual returns with the Department, exclusive of those filing under the Sale of Securities Act, is as follows:

Steam railroads	24	Electric companies	44
Street railways	22	Water companies	79
Telephone companies	14	Motor bus lines	62
Telegraph companies	3	Municipal lighting plants	42
Steamboat companies	2	Manufacturing and other companies doing an electric business	4
Sleeping car companies	1	Voluntary associations	30
Express companies	3		
Gas companies	46		
Total	376		

During the year the Commissioners of the Department held 499 formal hearings and many conferences. The following tabulation, showing the number and character of proceedings instituted, indicates the volume of work which required the Commissioners' attention during the fiscal year:

Petitions and Applications: Railroad, 69; street railway, 31; gas, 21; electric, 63; water, 12; Securities Division (appeals), 10; motor bus, 97; motor truck, 41; (appeals) 6; trackless trolleys, 7; steamboat, 1; miscellaneous, 12; total, 370.

Special Permits and Licenses: Railroad, 176; street railway, 38; gas and electric, 50; telephone and telegraph, 10; motor bus, 31; motor truck, 98; miscellaneous, 4; total, 407.

Complaints: Railroad, 177; street railway, 17; gas, 177; electric, 477; water, 22; telephone and telegraph, 494; motor bus, 76; motor truck, 447; sale of securities, 1,200; smoke abatement, 141; total, 3,228.

Tariff and Rate Schedule Filings: Railroad, freight service, 1153; passenger service, 363; express, 150; street railway, 45; telephone, 37; telegraph, 14; motor bus, 42; motor truck, 739; electricity, 247; gas, 61; water, 16; gas and electric contracts, 191; total, 3,058.

*Since the end of the fiscal year, covered by this report, Mr. Webber has been again appointed a Commissioner of the Department and designated as Chairman.

The appropriation for the Department and its expenditures for the fiscal year ended November 30, 1936, are given below:

Appropriations	\$368,370.79
Expenditures	361,956.98
Balance	\$ 6,413.81

The receipts of the Department for the same period are shown in the following itemized statement:

<i>Gas, Electric and Water Division:</i>	
Fees, gas and meter tests	\$20,740.95
Fees, electric meter tests	35.00
Fees, blank forms and maps	717.50
	\$21,493.45
<i>Public Service Division:</i>	
Motor Buses:	
Fees, bus permits	\$ 3,974.00
Fees, driver's licenses	3,318.00
	7,292.00
Motor Trucks:	
Fees, common carrier certificates	\$ 300.00
Fees, contract carrier permits	37,425.00
Fees, distinguishing plates	27,783.00
Fees, copies of documents	2,318.85
	67,826.85
Miscellaneous:	
Fees, copies of documents	\$ 3.00
Fees, blank forms	8.10
	11.10
<i>Securities Division:</i>	
Fees, registration of brokers	\$32,150.00
Fees, registration of salesmen	16,505.00
Fees, copies of documents	15.40
Miscellaneous sales	23.00
	48,693.40
Rent of land, Brattle Sq., Cambridge (Cambridge subway)....	4,100.00
Reimbursement for damage to state car	43.50
Postage51
Total	\$149,460.81

SPECIAL INVESTIGATIONS

Pursuant to the provisions of section 3 of chapter 333 of the Acts of 1931, and upon notice from the Trustees of the Boston Elevated Railway Company of a deficit in the operation of the railway for the nine months ending March 31, 1936, the Department made an investigation of the operations and expenses of the company, and a report, containing the Department's findings and recommendations will be transmitted to the Governor and to the members of the Metropolitan Transit Council. This is the fifth report which the Department has made.

RAILROADS AND STREET RAILWAYS

It was voted on July 20, 1936, that the position of Director of the Railway and Bus Utilities be re-established and that William H. Kirley be appointed Director of the Division of Railway and Bus Utilities.

During the fiscal year the Division made 14,160 inspections of railroad rolling stock, including locomotives, passenger and freight cars, 4705 inspections of street railway cars; 2175 inspections of railroad and railway stations; 2201 inspections of railroad and street railway bridges; 5195 inspections of railroad signals; 149 inspections of railroad interlockings; 189 inspections of railroad-crossing signals. In addition, switches and derails, foot blocking, bridge guards and crossing signs were inspected. Defective conditions were called to the attention of the proper officials of the companies and corrections made. The Division investigated 135 accidents on railroads, 161 accidents on street railways, and 194 complaints relating to railroads and railways filed with the Department.

Section 89 of Chapter 363 of the Acts of 1936, provides that the Department, upon the petition of a railroad corporation, or of a railway company, or of the Boston Terminal Company, or of a common carrier of passengers by water for hire having a usual place of receiving or discharging passengers within the Com-

monwealth, may from time to time appoint as police officers as many of the persons designated in said petition, and being citizens of the United States, as it may deem proper for the purposes and with the powers set forth in said Chapter. In accordance therewith the Department appointed 317 railroad police officers, 452 railway police officers, and 171 steamship police officers. Licenses were issued to the said appointees and a record of all such appointments is kept in the Department.

TELEPHONE AND TELEGRAPH

On November 30, 1936, there were 836,522 telephone stations in Massachusetts, a net gain of 29,606 stations over the preceding year.

On January 15, 1936, station-to-station toll rates for Sundays and person-to-person toll rates for nights and Sundays were reduced. The change in the schedule established new rates for Sunday service, the rates for station-to-station service being the same as the present night rates. It also established night rates for person-to-person calls between 7:00 P. M. and 4:30 A. M. Similar rates also apply for Sunday service.

On April 15, 1936, provision was made for a rate for auxiliary line main station service at a monthly base rate of \$2.75 net, these lines to be available as auxiliaries to one-party line measured service main stations. All messages from auxiliary lines are associated with the one-party line measured service main station. This particular service is helpful to the small business subscriber who has considerable inward use of telephone service and not a very heavy outward usage.

On September 1, 1936, a reduction was made in overtime rates on person-to-person message toll service after the first three minutes overtime.

Mileage charges were reduced by base rate area extensions in the Buzzards Bay, Holyoke, Leominster, Lowell, Northampton, Sagamore, Shrewsbury and Springfield exchanges. In Hyannis a zone basis of mileage measurement was established which substantially reduced the rate of subscribers in this exchange.

Season service regulations were removed from the Salem Willows section of the Salem exchange and from the Shrewsbury section of the Worcester exchange.

There were 494 complaints during the fiscal year, which required special surveys. The base rate area extensions materially reduced the number of complaints with reference to mileage charges and the other reductions tended to eliminate dissatisfaction among subscribers, who benefited by these changes.

MOTOR VEHICLE TRANSPORTATION

There are 83 persons, associations and corporations operating motor vehicles for carriage of passengers for hire under certificates of public convenience and necessity granted by the Department.

The total number of certificates issued by the Department during the fiscal year was 97, mainly for extensions of or changes in existing routes.

During the year the Department issued 400 bus permits and 3314 drivers' licenses. The Division of Railway and Bus Utilities made 7591 inspections of buses, and 1060 inspections of highway bridges over which motor vehicles under the Department's jurisdiction operate.

Accidents, 110 in number, and 76 complaints were investigated during the year by the division.

COMMERCIAL MOTOR VEHICLE DIVISION

During the fiscal year 30 common carrier applications and 2504 contract carrier applications were filed. This number of contract carrier applications included 247 amendments to original permits. There were 1236 interstate contract carrier applications filed. There are now 915 common carriers, 7,648 contract carriers and 2,035 interstate contract carriers registered with this Division since the Act became effective in June, 1934.

Hearings were held on 2437 contract carrier applications. There were 2173 contract carrier permits granted.

Section 7 of Chapter 264 of the Acts of 1934 as amended, provides that distinguishing plates shall be displayed on all vehicles transporting property for hire. During this fiscal year there were 5292 common carrier plates issued, and

17,385 contract carrier plates issued and 5,332 interstate contract carrier plates issued.

On October 1, 1936, there were 24 investigator-examiners appointed as provided by Chapter 477 of the Acts of 1935 to enforce the provisions of Chapter 264 of the Acts of 1934 and the rules and regulations of the Department made under authority thereof. There were 6486 inspections made and 1476 special investigations relative to violations of the Act. There were 447 complaints filed relative to unpaid C. O. D. shipments and unfair competition. On these complaints, 47 hearings were held, 1 common carrier certificate was revoked, 10 contract carrier permits were revoked and two were suspended.

The contract carrier rates established August 1, 1935 and amended November 20, 1935, were suspended by successive orders from June 1, 1936, until February 1, 1937. The rules and regulations adopted February 12, 1935 were amended March 6, 1936 to cover insurance requirements for some contract carriers. Transfers of common carrier certificates in this period total 12; transfers of contract carrier permits total 278. During the year 2835 plates were transferred upon authority and consent of the Department, for which there is no required fee.

In January, 1936, when the Interstate Commerce Commission Act became effective, applicants applied for certification by this Department as proof of operation in Massachusetts. A fee of \$1 was charged for each certified copy of a common carrier certificate and a fee of 50 cents for each certified copy of a contract carrier permit. There were 1947 copies made of contract carrier permits and 1286 copies of common carrier certificates.

The Interstate Commerce Commission also requires that each applicant under the Motor Carrier Act shall file with this Commission a copy of his I. C. C. application and we have on file in this Department approximately 5600 I. C. C. applications. These have been filed with this Department.

GAS, ELECTRIC AND WATER COMPANIES

For the year ending November 30, 1936, 80,867 gas meters were tested by the Gas, Electric and Water Division, and those found correct, were badged and sealed in accordance with the statute. This compares with the 60,262 gas meters of the previous year. Of the 80,867 meters, 1249 were meters tested on complaint of either the consumer or of the company. The average error (excluding four meters which did not register) was 1.76 per cent fast as compared to 1.63 per cent fast in 1935. In addition, nine experimental wet meters, eight five-foot meter provers, and 11 calorimeter thermometers were calibrated for the use of various companies. Seven electric meters were tested on complaint of consumers.

During the year 550 tests of the quality of gas supplied by the various companies were made and 42 violations of the legal standard were found and the offending companies notified. Six hundred and ninety-nine complaints of service, high bills, etc., were carefully investigated. Of these, 477 had to do with the use of electricity, 177 of gas and 45 of water. In addition, several investigations were made of complaints relative to customers' gas or electric appliances.

In conjunction with the Engineering Division, numerous investigations of the cost of extensions of gas, electric and water service were made and arrangements were completed for many such extensions without formal order of the Commission.

All electric company and municipal lighting plant reports were filed on time. The only gas company which failed to file its annual return within the time limit prescribed by law was the Lowell Gas Light Company.

We herewith set forth a list of the municipal plants with percentage earnings, which, from reports filed in 1936 for the year 1935, appear to have violated the

MUNICIPAL LIGHTING PLANTS

provisions of the statute requiring them to reduce their rates when the plants have earned a profit in excess of the 8 per cent allowed by law:

Ashburnham	9.04%
Norwood	10.84%
Peabody	32.97%

It also appears that the following towns have violated that part of the statute which provides that the town shall include in its annual appropriations and in the tax levy not less than the estimated cost of the gas and electricity to be used by the town. Records of street lighting only are available and these figures are as follows:

Town	Correct Amount as per Statute	Town Paid Only
Ashburnham	\$ 1,297.03	\$ 650.00
Georgetown	2,274.07	900.00
Groveland	3,004.32	1,800.00
North Attleborough	10,481.90	5,000.00
Peabody	10,758.77	2,070.00
Wellesley	18,056.27	15,100.00

ENGINEERING DIVISION

In accordance with Chapter 333 of the Acts of 1931, the Division investigated and made a special report to the Commissioners on the savings that might be effected in operating expenses on the Boston Elevated Railway.

Plans and specifications for the elimination of 16 grade crossings by the Department of Public Works were examined and a report made to this Department, in accordance with the provisions of section 70 of chapter 159 of the General Laws, as amended by section 1, chapter 357 of the Acts of 1934.

Investigations and reports in accordance with a vote of the Department were made on the capital expenditures and retirements of the following companies:

Boston Elevated Railway	Boston Terminal Company
Huntington Electric Light Company	Agawam Electric Company
United Electric Company	Hingham Water Company
Amherst Water Company	Western Mass. Electric Company

Special investigations and studies were made of the rates of the following companies:

Hingham Water Company	Millbury Water Company
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A physical valuation was made of the Blackstone Water Company in connection with a stock issue.

Investigations and reports were made also on 88 proposed bus routes.

During the year, the Division made special inspections of 143 bridges carrying railroads, street railways or buses. Restrictions were recommended for 16 of these bridges and the discontinuance of the operation of buses over 3 bridges. A total of 19 bridges were found to be not in satisfactory condition.

After the floods of last March, a complete inspection of the gas and electric plants affected was made jointly with the Director of Gas, Electric and Water Utility Division.

The Division acted with and assisted the Director of the Gas, Electric and Water Utility Division in the investigation of 51 complaints and other matters relating thereto.

During the year, studies were made relative to the operation of trackless trolleys and the construction of overhead feeders.

The Division assisted the Attorney-General before the Superior Court in Worcester on petitions of the New York, New Haven and Hartford Railroad for reimbursement for expenditures made on account of proposed elimination of grade crossings in Leominster and Southboro.

A study and investigation of the Chelsea Division of the Eastern Massachusetts Street Railway Company, which was acquired by the Boston Elevated Railway was completed during the year.

SMOKE ABATEMENT

During the year ending November 30, 1936, 313,973 observations were made and 1274 violations were noted. Recommendations of the Division were generally followed but 18 formal hearings were necessarily required and 10 formal orders were issued. One hundred and forty-one complaints were received and investigated. This total was 48 less than that of the preceding year.

CAPITAL STOCK AND BONDS

Nine applications for approval of issues of stock, bonds or notes of public utilities were decided during the year which ended November 30, 1936. The par value of securities to the amount of \$15,220,000 was approved.

The following table shows the securities approved by the Commission for the several companies applying therefor, giving both the par value of the capital stock and the issue price thereof, determined as required by law:

COMPANY	Capital Stock Approved			Bonds Approved at Par	Date
	Amount at par	Issue Price	Value at Issue Price		
Amherst Water Company . . .	—	—	—	\$ 150,000	July 20
Blackstone Water Company . .	\$ 1,500	\$ 10.00	\$ 1,500	—	July 30
Huntington Electric Light Co.	3,500	65.00	9,100	—	Feb. 26
New England Power Company .	—	—	—	10,067,000	Oct. 16
Pittsfield Electric Company . .	416,000	125.00	520,000	—	Oct. 14
Southeastern Massachusetts Power and Electric Co. ¹ . . .	632,000	32.75	827,920	—	Dec. 23
Turners Falls Power and Elec- tric Company	—	—	—	3,000,000	Nov. 6
United Electric Light Company .	550,000	65.00	1,430,000	—	July 6
Western Massachusetts Electric Company	400,000	125.00	500,000	—	July 6

¹Issued to purchase property of the Plymouth Electric Light Company.

SECURITIES DIVISION

During the year, 644 brokers and 3291 salesmen were registered in the Division. The sale in the Commonwealth, in that period, of securities having an aggregate par value of \$54,446,351 has been forbidden by the Securities Division. Since the effective date of the Sale of Securities Act (August 26, 1921), up to November 30, 1936, the proposed sale of securities having an aggregate par value of more than \$3,000,000,000 has been prohibited. Thirty-nine formal hearings were held by the Director of the Division during the year on complaints arising in connection with sales of securities or the manner in which brokers or salesmen conducted their business. Six appeals from the orders and findings of the Division were filed with the Commission. The registration of 13 brokers and 61 salesmen were cancelled pursuant to their request. The registration of 4 brokers and 2 salesmen were cancelled by orders of the Division after a hearing. In addition, approximately 1200 complaints against brokers and salesmen were investigated by the Division. Four cases were referred to the Attorney General during the year under the provisions of section 20 of the Sale of Securities Act.

RECOMMENDATIONS FOR LEGISLATION

Compilation of Public Utility Laws:

Section 8 of chapter 25 of the General Laws authorizes the Department to make compilation with annotations of the statutes relating to common carriers. The statute conferring this authority upon a predecessor of this Department, the Public Service Commission, has remained without substantial change since its original enactment in 1913, notwithstanding the fact that the Department's jurisdiction over public utilities is not limited to common carriers. The issue by the Department of a compilation of the statutes of the Commonwealth relating not only to common carriers but to all public utilities under its jurisdiction, including gas, electric and water companies and municipal lighting plants would, we believe, be in the public interest. Moreover, we believe that if such a compilation were available, a sufficient number of copies could readily be sold to cover the cost of its preparation and publication.

Regulation of Rates for Gas and Electricity:

The so-called sliding scale arrangement of rates for electric and gas companies has enjoyed very considerable success in Washington, D. C., since 1924. We see no reason why similar arrangements with our Massachusetts gas and electric companies should not produce satisfactory results. Under our present laws, even if the Department could enter into any arrangements with a company, or companies, for any period of time, there is nothing to prevent the customers, or others, from filing at any time petitions resulting in rate cases. Our proposed bill provides for an opportunity for the Commonwealth and a company,

or companies, to agree upon reasonable return, and to arrange for specified periods of time upon rates and upon the distribution of excess earnings.

A sliding scale arrangement for rates provides that earnings above an agreed upon fair rate of return are shared between the company and the consumers. The consumers' share in any excess earnings is realized by reduction in the rates charged in the succeeding period. Our bill is purely a permissive measure.

Periodic Replacement of Gas Meters:

Section 2 of chapter 164 of the General Laws, Tercenary Edition, provides that the terms "corporation", "gas company" and "electric company" include municipal corporations which own or may acquire municipal lighting plants in construing certain sections of the chapter. Section 115 of said chapter is not included in the sections as being applicable to municipal plants. Chapter 164 of the General Laws was amended by inserting after section 115, section 115A which provides for the periodic replacement of meters for measuring gas. The words "gas company" as used in section 115A do not apply to municipal lighting plants. At the present time four municipal lighting plants are engaged in the distribution of gas, in Holyoke, Westfield, Wakefield and Middleborough. It would seem, therefore, that the benefits of such legislation should be enjoyed likewise by the inhabitants of these communities.

Sale of Securities Act:

The Federal Security Act of 1933 according to its title is an act to provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent frauds in the sale thereof, and for other purposes. There may be provisions of this statute which might be incorporated in the Sale of Securities Act and we are of the opinion that the matter is of such public interest and importance as to warrant an investigation and consideration by a recess commission. There are also some additions and amendments to chapter 290 of the Acts of 1932, being an act in amendment and revision of the Sale of Securities Act as amended, which we believe should also be investigated and considered, to the end that legislation may be recommended and enacted which would be of substantial benefit to the public.

We renew our recommendation of the last two years, that the word "security" should be defined to include mineral deeds conveying fractional interest in minerals or oils, and we repeat what was said in the Department's recommendations for legislation in 1934, as follows:

"Many persons in this Commonwealth have been engaged in the sale of mineral deeds conveying fractional interests in the minerals or oil under the ground. There has been some conflict of opinion as to whether these mineral deeds are within the purview of the Sale of Securities Act. On April 16, 1934, in the Suffolk Superior Criminal Court it was ruled by the presiding justice that certain mineral deeds did not constitute securities within the meaning of the Sale of Securities Act. We see no reason why these mineral deeds should not be included in the term 'security' when oil, gas, and mining leases are certificates of interest in or under the same are all included under the term 'security' in the Act. There is little or no distinction between the two and the evil of the indiscriminate sale of the one is the same as in the other."

Respectfully submitted,

A. C. WEBBER, *Chairman*,
LEONARD F. HARDY,
LEO H. LEARY,
RICHARD D. GRANT,
JOHN J. CURLEY,
Commissioners.